



A rights-based approach to HIV in the European Union

Contribution of the European Union Agency for Fundamental Rights (FRA)

to the International AIDS Conference 2010, Vienna 18-23 July

HIV - a serious problem

HIV remains a problem in the European Union Member States, where new infections are on the rise.

HIV is more than a medical issue; it is also a **human rights issue**. Ensuring equal treatment and respect of fundamental rights for people living with HIV is essential for an effective response to HIV in the European Union and beyond.

Key considerations - acknowledging rights

▪ Promotion of rights for key populations at higher risk reduces transmission

Key populations at higher risk of HIV transmission in Europe include men who have sex with men, drug users who inject, migrants and prisoners. Interventions aiming to promote and protect these various populations' human rights can help to reduce the likelihood of HIV transmission.

▪ Universal access

HIV prevention, treatment, care and support should be made universally accessible in line with political declarations. Migrants and asylum seekers should not be deprived of such access.

▪ Criminalisation of unintentional HIV transmission enforces stigma

Criminalisation of unintentional HIV transmissions promotes fear and stigma, reinforces stereotypes, and discourages people from HIV testing and counselling. Criminalisation of reckless HIV transmission should be discontinued or mitigated in line with the recommendations of UNAIDS (see UNAIDS Policy Brief, August 2008).

▪ European-level action needed

European-level action on HIV has an added value and offers several avenues for initiatives, both in and beyond the area of public health. HIV-related issues could be mainstreamed into EU policies of fundamental / human rights relevance, such as free movement of people, non-discrimination, and social inclusion.

▪ The principle of GIPA should be observed

People living with HIV should be treated as active partners and empowered individuals in designing responses to HIV, following the principle of Greater Inclusion of People Living with HIV and AIDS (GIPA).

▪ NHRIs should be involved

National Human Rights Institutions (NHRIs) can play an important role in assessing and reporting on the human rights situation of persons living with HIV, to increase accountability for action at the national level. NHRIs can also ensure that this information is passed on to UN treaty bodies.

▪ Continuation despite financial set backs

The economic crisis should not impede access to and availability of treatment, care and support, as well as funding of HIV prevention strategies.

▪ A case for anti-discrimination protection

The anti-discrimination provisions, which are applied in the area of disability, should also be provided to persons living with HIV. This is in line with the new "social model" of disability outlined in the UN Convention on the Rights of Persons with Disabilities.

Over 2 million people live with HIV in the European Union and its neighbouring countries. The number of diagnosed infections is increasing.



The FRA at the International AIDS Conference 2010

The FRA's involvement in the conference is based on contributions from experts, a peer review workshop and stakeholder consultation. Stakeholders consulted include representatives of civil society organisations (including networks of persons living with HIV), and including Equality Bodies, NHRIs and research organisations. A discussion paper summarising the Agency's input will be published in 2010.

European Parliament Resolution

Following up on the European Parliament Resolution of 6 July 2010, the FRA presents this factsheet in order to highlight issues of key importance to a rights-based approach to HIV in the European Union.¹

"[The European Parliament] ... calls on the Commission and the Council to engage the European Union Agency for Fundamental Rights to gather further evidence on the human rights situation of people living with HIV/AIDS and other key populations in Europe, taking into account especially their vulnerability to multiple and inter-sectional discrimination; [...]"

The FRA mandate

The FRA is mandated to provide evidence-based advice on fundamental rights to European Union institutions and bodies and Member States, when implementing European Union law.

The FRA collects, analyses and disseminates objective, reliable and comparable information on the development of fundamental rights in the European Union.

Relevant provisions of the Charter of Fundamental Rights of the European Union:

- *Art 4 - prohibition of degrading treatment*
- *Art 8 - right to privacy*
- *Art 21 and 26 - non-discrimination*
- *Art 24 - rights of the child*
- *Art 35 - right to access to health care*
- *Art 45 - freedom of movement*

USB stick with FRA material

Please help yourself to a FRA USB stick, which contains publications that may be of interest to you:

- *FRA factsheet: 'A rights-based approach to HIV in the European Union'*
- *FRA promotional material*
- *FRA publications on LGBT rights*
- *FRA analysis of the EU-MIDIS survey: the first survey on experience of discrimination among ethnic and migrant communities in Europe*
- *FRA report on child trafficking*
- *FRA reports on the EU fundamental rights architecture*

Morten Kjaerum, Director of the FRA, speaks at the following sessions of the International AIDS Conference 2010:

20 July from 13:00 to 14:00: Special Session on 'Human Rights and Health', Session Room 1

22 July from 18.30 to 20.30: Satellite Session 4 on 'Effective policies and measures in Europe to address key populations', Session Room 3

¹ The European Parliament Resolution on a rights-based approach to the European Union's response to HIV and AIDS was passed on 6 July 2010.